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In re Application of :  
Geoff Barrett et al :  
Application No. 10/664,055 :  
Filed: September 17, 2003 :  
Attorney Docket No. 1875.5100000 :  
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 5, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 6, 2007. See MPEP 1215.04.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$2230 extension of time submitted with the petition on May 9, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2183 for further processing.

Irvin Dingle  
Petitions Examiner  
Office of Petitions